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Please reply to New Jersey

March 4, 2025

VIA ECOURTS FILING

Honorable Evelyn Padin, U.S.D.J.
United States District Court - Newark
Martin Luther King Jr. Federal Building &
U.S. Courthouse 2 Federal Square
Newark, NJ 07101

RE: **JESSICA KRATOVIL AND BRIAN RAK VS. PISCATAWAY TOWNSHIP**
Our File No. : 95781 WSB
Docket No. : 2:24-CV-10661

Dear Judge Padin:

Pursuant to Your Honor's judicial preferences, on behalf of Defendant Piscataway Township, leave is requested to file a motion to dismiss Counts I-III of the Complaint with prejudice for failure to comply with the Tort Claims Notice requirement set forth in N.J.S.A. 59:8-8.

On October 22, 2024, Jessica Kratovil and Brian Rak ("Plaintiffs") filed a Complaint in the Superior Court of State of New Jersey, Middlesex County against Defendant. The underlying allegation is that Defendant's stormwater system is deficient and this has resulted in repeated flooding events on Plaintiffs' residential property "over the years, including within the two years preceding the

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commencement of this civil action.” At Count I, plaintiffs allege that Defendant was negligent and liable for a dangerous condition of public property. At Count II, Plaintiffs allege nuisance and unreasonable interference with Plaintiffs’ property. At Count III, plaintiffs allege trespass. At Count IV, Plaintiffs allege that defendant’s conduct constituted an inverse condemnation in violation of the Fifth Amendment of the United State Constitution and 42 U.S.C. § 1983. Defendants removed this matter to Federal Court based upon the inclusion of the inverse condemnation claim.

Counts I-III fail because Plaintiffs did not serve a Tort Claims Notice.

When a party alleges that an injury arising from a tortious action or inaction of a public entity, any causes of action brought will be subject to the Torts Claim Act. N.J.S.A. 59:4-1, et seq. N.J.S.A. 59:8-8 requires any claim “relating to a cause of action for injury or damage to person or to property to be presented as provided in this chapter not later than the ninetieth day after accrual of the cause of action.” N.J.S.A. 59:8-8 further directs that “[t]he claimant shall be forever barred from recovering against a public entity or public employee if:

- a. He failed to file his claim with the public entity within 90 days of accrual of his claim except as otherwise provided in section 59:8-9.

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For this reason, Defendant requests leave of Court to file a motion to dismiss Counts I-III of the Complaint with prejudice for failure to comply with the Tort Claims Notice requirement set forth in N.J.S.A. 59:8-8.

Respectfully submitted,

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